REMARKS

The Official Action objects to the form of claim 1, which has been amended solely as to form. Reconsideration and withdrawal of the objection are respectfully requested.

Claims 1-4 and 6 were rejected as anticipated by TIEDEMANN, Jr. et al. 5,914,950. Reconsideration and withdrawal of the rejection are respectfully requested.

TIEDEMANN, Jr. et al. disclose a system for scheduling use of a reverse link 52 in a communication system (the reverse link is the communication path from the mobile station to the cell). The base station controller 10 (through channel scheduler 12) keeps track of the maximum transmission rate that a mobile station can use in the reverse link (column 7, lines 28-32) and assigns a data transmission rate to the mobile station (column 9, lines 1-2) based on several factors, including the transmit power available to mobile station and the queue size at the mobile station indicating the amount of data to be transmitted by the mobile station to the base station over the reverse link (column 9, lines 30-41). The available transmit power and the queue size are periodically sent to the channel scheduler 12 (column 11, lines 56-64) so that the mobile station's transmit rate can be determined. A formula for determining the mobile station's transmission rate is given at column 18, lines 30-43. Note that the queue size refers to the size of the queue at the mobile station.

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TIEDEMANN, Jr. et al. do not disclose a data buffer in the network interface (the network interface that also includes the data source for the requested data) for temporarily storing the data requested from the data source. The data buffer for storing data that is disclosed in the reference is in the mobile station, not in the network interface. Note also that the data stored in the mobile station is the data to be transmitted from the mobile station, not the data requested from the data source in the network interface.

TIEDEMANN, Jr. et al. also do not disclose a data transfer rate controller located in the network interface for increasing a data transfer rate in the radio interface when the data stored in the buffer exceeds a prescribed threshold. By contrast, the channel scheduler 12 in the reference changes the data transfer rate in the radio interface based on the queue size in the mobile station.

By way of further explanation, claim 1 is directed to a communication system that includes a radio interface that includes a data acquisition requesting means (e.g., mobile station 101) and a network interface that includes a data source (e.g., content server 105). The network interface also includes data buffering means (e.g., buffer 203), a data transmitting means (e.g., base station 201), and a data transfer rate control means (e.g., rate setting section 202). The reference does not disclose a network interface (as distinct from the radio

interface) that includes features equivalent to the data buffer

means and the data transfer rate control means that are defined

with means-plus-function terms (as interpreted under §112, sixth

paragraph). Nothing in TIEDEMANN, Jr. et al. suggests monitoring

a data buffer in the network interface (e.g., at a base station)

to determine whether to change the data transfer rate in the

radio interface for the data that is stored en route from the

data source in the network interface to the data requestor in the

radio interface. The reference suggests the opposite, namely

monitoring the queue in the mobile station for data that is

stored en route from the mobile station to the base station.

Accordingly, the reference does not disclose all the

claimed elements and the claims avoid the rejection under §102.

Claim 5 was rejected as unpatentable over TIEDEMANN,

Jr. et al. in view of H'MIMY et al. 6,512,752. The secondary

reference has been carefully considered, and does not make up for

shortcomings noted above. Reconsideration and withdrawal of the

rejection are respectfully requested.

New claims 7-11 avoid the art of record and are also

allowable. For example, the references, alone or in combination,

do no disclose a base station that includes a data buffer that

stores data transmitted from the content server to the base

station via the network connection, and a transfer rate setting

section that sets a data transfer rate from the data buffer to

one of the mobile stations via a respective radio connection based on an amount of data in the data buffer, as in claim 7.

The references also do not disclose features of the new dependent claims, such as that the transfer rate setting section of claim 8 that monitors a total of power transmitting from the base station to all the mobile stations, and when the total of power is less than a maximum transmitting power and when the amount of data in the data buffer exceeds a threshold, that increases the transfer rate from the data buffer to the one of the mobile stations. The references also do not disclose the transfer rate decrease of claims 9 and 10, or the two radio transfer channels of claim 11, where the transfer rate setting section switches between the first and second radio transfer channels for data transfer from the base station to the one of the mobile stations based on the amount of data in the data buffer.
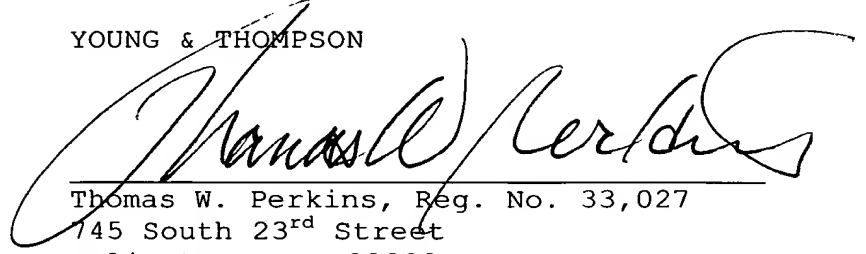
In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional

fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

Thomas W. Perkins, Reg. No. 33,027
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
          (703) 979-4709

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